



UNITED STATES PATENT AND TRADEMARK OFFICE

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Charles Calkins  
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In re Application of	:	
Holden et al.	:	DECISION ON PETITION
Application No. 09/803,987	:	TO WITHDRAW THE
Filed: March 13, 2001	:	HOLDING OF ABANDONMENT
For: SYSTEM AND METHOD FOR PROVIDING	:	
SERVICES USING A WEB HUB	:	

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on July 21, 2005. There is no fee for this petition.

The petition is **DISMISSED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicant on December 16, 2004, which set a three-month response period. A Notice of Abandonment was mailed on July 19, 2005.

Applicants' petition indicates that the Office action was never received. In support thereof applicant has provided a copy of the "docket record" where the non-received Office action would have been entered. The support provided appears to be a copy of a file jacket and an incoming mail log. This is not sufficient evidence since the docket record should show all actions due by the entire firm at and around the due date for response. Further, it is noted that one of the applications listed in the docket record indicates that an Office action was mailed on December 16, 2004 and includes a response period of March 16, 2005. The serial number for the application and other identifying information has been removed from the docket record. The applicants' need to clarify whether the application listed in the docket record is in fact the present application.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;

- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

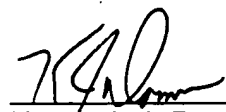
The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around March 16, 2005.** See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office action mailed December 16, 2004 was not received or placed in the file for application 09/803,987. A complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around March 16, 2005 is required.

Petitioner's evidence of non-receipt of the Office action mailed December 16, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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KJD/bkg 11/9/05